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The American Energy Initiative: A Focus on Growing Differences for Energy Development on Federal vs. Non-Federal Lands

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Summary

- The oil and natural gas industry has significantly increased production of oil and natural gas over the last several years. The huge increases in production are the result of private sector investment in technology and improved techniques applied largely on private lands. 96% of the oil production growth since 2007 has been on private lands.

- Production has increased in spite of, not because of, the federal government. Where the government has the most control, on federal lands, production is simply not keeping pace with the growth overall across the nation.

- The reason for the disparity between federal and private/state lands is simple – federal government policies and additional bureaucracy make it extremely difficult to operate on public lands.

- Whereas on private and state lands production can be realized in a reasonable timeframe, on federal lands three years is a general minimum. Usually it is a matter of five to ten years, and we've seen delays stretching over fifteen years.

- Policies such as additional layers of leasing analysis; environmental analysis that's stretching five to seven years; average permitting times of 298 days; ad hoc demands with no basis in regulation; litigation from environmental groups; and inability to access leases.

- To exacerbate delays, BLM is adding an entire new and redundant hydraulic fracturing regulatory regime.

- Examples of delays preventing small businesses from producing oil and natural gas, creating jobs, stimulating the economy, and returning revenue to the American taxpayer are provided.

Chairman Whitfield, Ranking Member Rush, and Members of the Committee, thank you for the opportunity to appear before you today. Western Energy Alliance represents 400 companies engaged in all aspects of environmentally responsible exploration and production of oil and natural gas across the West. Alliance members are mainly small businesses and independent producers.

Because of the huge portion of public lands in the West, my members are particularly affected by government policies that reduce access to energy owned by all Americans on federal lands. Our members are proud to produce 26% of America's natural gas and 18% of its oil production while disturbing only 0.07% of public lands.

Production from the West supports 229,150 jobs, $51 billion in annual economic activity and $6 billion in taxes that benefit every single state and congressional district across the country. Our *Blueprint for Western Energy Prosperity* projects that my industry in the West will create 70,000 additional jobs and double investment by 2020 while significantly displacing foreign imports, but government policies threaten our ability to reach that full potential.

Across the country, my industry has significantly increased production of oil and natural gas over the last several years. U.S. production of oil has increased to the point that we're now importing only about 45% of our crude oil. Natural gas producers have increased technology to such an extent that we have over a hundred year supply and prices have been dramatically reduced. The huge increases in production are the result of private sector investment in technology and improved techniques applied largely on private lands. 96% of the oil production growth since 2007 has been on private lands.[1]

My industry has increased production substantially in spite of, not because of, the federal government. Where the government has the most control, on federal lands, production is simply not keeping pace with the growth overall across the nation. In the West, natural gas production has declined 4% since 2008, whereas it's up 29% on private and state lands. Because of the Bakken in North Dakota, oil production is up 54% in the West on private lands, but only 26% on federal lands. Nationwide, federal oil production is down 1%.

Why this disparity between federal and private/state lands? The reason is simple – federal government policies make it extremely difficult to operate on public lands. Producers struggle to navigate additional bureaucratic barriers on federal lands, while many avoid federal lands at all costs because it's just too difficult to realize any return on investment within a reasonable time frame. It's hard enough to raise and deploy capital in tough economic times in the face of new federal regulation, but that problem is multiplied on federal lands. There is virtually no certainty on how long it will take to overcome the bureaucratic hurdles.

Let me provide some concrete examples of why development on federal lands is so difficult compared to state and private lands:

- Policy changes made in 2010 have added three layers of leasing analysis onto a system which already had five layers of analysis. As a result, BLM offered 81% less acreage in FY 2011 than in FY 2008.

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[1] *U.S. Crude Oil Production in Federal and Non-Federal Areas*, Marc Humphries, Congressional Research Service, March 20, 2012.

- One aspect of the 2010 policy changes was new the so-called Master Leasing Plan policy that requires redundant analysis in some areas prospective for oil and natural gas. These MLPs could put off limits an additional 300 million barrels of oil and condensate, and 10.5 trillion cubic feet of natural gas, on top of the huge energy resources that are already off limits.
- Environmental analyses under the National Environmental Policy Act (NEPA) regularly take the government five to eight years to complete, despite companies paying for the contractors to perform the analysis. Delays of three years or more are preventing 1,600 wells and the creation of 64,805 jobs, $4.3 billion in wages, and $14.9 billion in economic impact every year.
- It takes the government 298 days on average to approve permits, whereas corresponding state permits take about 30 days. Ad hoc demands for extra-regulatory surveys, studies, analyses, and other requirements which are added on at the field office level and can cause a permit to languish for years are not even counted in the 298 day average.
- Environmental groups regularly protest leases and permits, and sue to stop project approvals. Between FY2008 and FY2011, over 70% of leases offered in the Rockies were protested.
- Altogether, from lease until actual production, the process can take more than ten years, versus less than a year or two for private lands.

On top of all those delays, BLM is undergoing rule making regarding hydraulic fracturing despite lack of budget, expertise and manpower. Besides being extremely costly and time consuming, adding about $250,000 to the cost of each new well and inevitable increased permitting delays, the new requirements are redundant with state regulation and will further drive investment off public lands.

Examples where the burdensome process has stopped production:

- It took Stewart Petroleum, a sole proprietorship, nearly four years to get through the environmental analysis and legal challenges by environmental groups for a nine-well natural gas project in eastern Utah. After four years of being unable to realize any return on its $9 million investment, the company shifted to oil production on private lands in Kansas.
- Ewing Exploration, a six-person company, started an oil exploration project in the Bighorn Basin of Wyoming in 2005. Initial exploratory work determined that adjacent federal acreage was necessary to fully develop the resource. Continued delays by BLM in bringing leases to auction while it conducts additional analysis in the area has isolated Ewing's initial $3.5 million investment and prevented domestic oil resources from being developed.
- Impact Energy Services, a sole proprietorship, may suffer from bad luck, but it's bad luck imposed by a federal government breaking its commitments and obligations. Impact had leases in Utah withdrawn by Interior Secretary Salazar in one of his first acts upon taking over in 2009. In 2011, the Forest Service attempted to withdraw Impact's leases

in Wyoming purchased in 2006. While Western Energy Alliance was able to persuade the Forest Service to revoke that decision, bureaucratic inertia means that those leases continue to languish without production. This small business has suffered over half a million dollars in legal fees and lost business because of these ill-advised decisions.

- WillSource Enterprise is another small company that has been prevented from producing on its leases going on sixteen years now. Reed Williams will explain in depth, but his is a story of the one federal agency constantly requiring him to do additional environmental analyses and other ad hoc requirements, only to have another federal agency attempt to revoke some of his leases because he was failing to produce on them.
- Western Energy Alliance sued the Department of the Interior over its failure to issue leases to companies within sixty days of receipt of payment after auction, as required by law. All leases had been outstanding between two and five years. It's analogous to making a purchase on eBay, and then not receiving the goods for years. When ordered by a federal district judge in Wyoming to make a decision on these leases, Interior simply turned around and asked the companies for more time. When the companies refused, BLM simply denied the leases. We're appealing to the 10th Circuit Court, but these leases have now been held up an additional year and counting.

In all these cases, the general public loses out in terms of energy all Americans own and return to the American taxpayer. Small businesses, the engines of our economy, are prevented from creating jobs and economic growth.

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